IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8362 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

KHAMBALIA NAGAR PALIKA

Versus

KAMLESH B TANK

Appearance:

MR MANOJ N POPAT for Petitioner

MRS SANGITA PAHWA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 13/09/2000

ORAL JUDGEMENT

1. RULE. The learned counsel appearing for the respondents waives service of Rule. The impugned order purporting to have been made below the application made by the respondents under Section 33-A of the Industrial

Disputes Act, 1947 is challenged on the ground that it is incompetent, without jurisdiction and amounts to granting the whole and final relief at the interim stage.

2. It is apparent from the averments made in the original application of the respondents themselves that no reference case or proceedings were pending before the Labour Court at the time the application for maintaining status quo or the subsequent application was made. The provisions of Section 33-A of the I.D.Act clearly contemplate an application or a complaint to Labour Court, Tribunal or National Tribunal where the proceedings are pending. As stated in the application of the respondents, the proceedings were pending before the Conciliation Officer and not before the Labour Court which has passed the impugned order. Therefore, the impugned order is obviously without jurisdiction and, therefore, required to be quashed and set aside. Accordingly, the impugned order dated 15.5.2000 below Ex.18 in Reference I.T.(Complaint) No.4 of 2000 pending before the Labour Court, Jamnagar is set aside. The petition is allowed and the Rule is made absolute with no order as to costs. It will be open for the respondents to file an appropriate application or complaint before the authority or forum where the proceedings pursuant to their demand may be pending.

Sd/-

(KMG Thilake)

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